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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/594,142 | 11/21/2006 | Hiromi Takarada | TOR-06-1354 | 8937 |
| 35811 7590 10/08/2010 IP GROUP OF DLA PIPER LLP (US) ONE LIBERTY PLACE 1650 MARKET ST, SUITE 4900 PHILADELPHIA, PA 19103 | | | | |
| EXAMINER SALVATORE, LYNDIA | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 1786 | | | | |
| NOTIFICATION DATE | | DELIVERY MODE | | |
| 10/08/2010 | | ELECTRONIC | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pto.phil@dlapiper.com

Office Action Summary

Application No.

10/594,142

Applicant(s)

TAKARADA ET AL.

Examiner

LYNDA M. SALVATORE

Art Unit

1786

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3, 6 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI.08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Interval Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Arguments

1. Applicant's remarks filed 7/6/10 have been fully considered and entered.

Applicant's remarks are found persuasive to overcome the obviousness type rejections made over Chen et al., US 5,685,832 in view of Aranishi et al., US 6,984,63 as set forth in section 3 of the Office Action dated 4/1/10. Applicant persuasively argues a lack of motivation to combine references on the grounds that Aranishi et al., teach adding plasticizer to the cellulose acetate propionate to impart strength. Applicant's present claims preclude the addition of plasticizer. As such, these rejections are hereby withdrawn. However, upon further consideration, claims 1 and 2 are rejected over Chen et al. alone for reasons set forth herein below.

Claim Rejections - 35 USC § 102/103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-2 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Chen et al., US 5,685,832.

Applicant argues that Chen et al., is not enabling with respect to how the fibers and filaments are made. This argument is not found persuasive. In response, Applicant is not claiming a product by process or a particular process used to form the filaments of claim 1. In other words, Applicant is not claiming a melt-spun continuous filament. Applicant only recites a woven or knitted fabric made from continuous filaments. It is the position of the Examiner that the prior art of Chen et al., sufficiently meets such a

limitation. If having a melt-spun continuous filament is critical to the novelty of the instant invention it is suggested that Applicant recite such a feature. Absent such features, it is the position of the Examiner that Applicant's arguments are not commensurate in scope with the claimed subject matter.

Chen et al., does not teach the claimed strength, initial tensile modulus, glass transition temperature or CV properties, however, it is reasonable to presume that said properties are inherent to the woven and/or knitted fabric taught by Chen et al., Support for said presumption is found in the use of like materials such as a cellulose ester fiber and the use of like processes such as forming a woven and/or knitted fabric from continuous filaments, which would result in the claimed glass transition temperature and CV properties. Applicant is invited to prove otherwise. *In re Fitzgerald* 205 USPQ 594

In addition, the presently claimed strength, initial tensile modulus, glass transition temperature and CV properties would obviously have been present once the knitted fabric of Aranishi et al., is provided. *In re Best*, 195 UPSQ 433

Allowable Subject Matter

4. Claims 3, 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LYND A. SALVATORE whose telephone number is (571)272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 1st, 2010
Art Unit 1786

/Lynda Salvatore/
Primary Examiner

Serial Number



Application No.

10/594,142

Applicant(s)

TAKARADA ET AL.

Examiner

LYNDA M. SALVATORE

Art Unit

1786